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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 SCOTT C. SMITH,

9 Plaintiff,

10 v.

11 B. ZAVODNY, et al.,

12 Defendant(s).

Case No. C10-5188BHS

ORDER OVERRULING
PLAINTIFF'S OBJECTIONS AND
ADOPTING REPORT AND
RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation ("R&R") of
14 the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 59) and Plaintiff's
15 ("Smith") objections and supplemental objections to the R&R (Dkts. 64, 66).

16 This matter arises out of Smith's motion for injunctive relief, filed to collaterally
17 challenge his placement in the Intensive Management Unit ("IMU"), a classification change,
18 and a disciplinary hearing wherein he was found guilty of possessing drugs. As a result of
19 these events, Plaintiff lost 180 days of good conduct time. Dkt. 59 at 1. On January 3, 2011,
20 the magistrate judge filed his R&R in this matter. *Id.* On January 14, 2011, Smith filed his
21 objections to the R&R. Dkt. 64. On January 19, 2011, Smith filed supplemental objections
22 to the R&R. Dkt. 66.

23 The Court agrees with the magistrate judge that Smith cannot challenge the guilty
24 findings or the loss of good time in this proceeding. The Court further agrees that, given the
25 legitimate penological reason for his placement in the IMU, Smith fails to establish that such
26 action was retaliatory. These were the bases for his motion for injunctive relief.
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1 Smith's objections to the R&R simply reasserts arguments already properly rejected
2 by the magistrate judge. Smith's objections also fail to adequately establish any error in the
3 magistrate judge's R&R that would warrant declining to adopt the R&R.

4 Additionally, the Court agrees that Smith shall not be granted *in forma pauperis*
5 status on appeal pursuant to 28 U.S.C. 1915(a)(3).

6 Therefore, the Court having considered the R&R, Plaintiff's objections, and the
7 remaining record, does hereby find and order as follows:

- 8 (1) Smith's objections are **OVERRULED**;
9 (2) The R&R is **ADOPTED**;
10 (3) Smith's motion for injunctive relief is **DENIED**; and
11 (4) Smith shall not be granted *in forma pauperis* status should he elect to appeal
12 this order.

13 DATED this 2nd day of March, 2011.

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16 BENJAMIN H. SETTLE
17 United States District Judge
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